



## DEPARTMENT OF COMMERCE

### Patent and Trademark Office

#### **Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Patent Law Treaty**

**AGENCY:** United States Patent and Trademark Office, Department of Commerce.

**ACTION:** Notice of information collection; request for comment.

**SUMMARY:** The United States Patent and Trademark Office (USPTO), as required by the Paperwork Reduction Act of 1995, invites comments on the extension and revision of an existing information collection: 0651-0073 Patent Law Treaty. The purpose of this notice is to allow 60 days for public comment preceding submission of the information collection to OMB.

**DATES:** To ensure consideration, comments regarding this information collection must be received on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** Interested persons are invited to submit written comments by any of the following methods. Do not submit Confidential Business Information or otherwise sensitive or protected information.

- *Email:* [InformationCollection@uspto.gov](mailto:InformationCollection@uspto.gov). Include “0651-0073 comment” in the subject line of the message.
- *Federal Rulemaking Portal:* <http://www.regulations.gov>.
- *Mail:* Justin Isaac, Office of the Chief Administrative Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to Parikha Mehta, Senior Legal Advisor, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450; by telephone at 571-272-3248; or by

email at [parikha.mehta@uspto.gov](mailto:parikha.mehta@uspto.gov) with “0651-0073 comment” in the subject line. Additional information about this information collection is also available at <http://www.reginfo.gov> under “Information Collection Review.”

## **SUPPLEMENTARY INFORMATION:**

### **I. Abstract**

The Patent Law Treaties Implementation Act of 2012 (PLTIA) implements the provisions of the Patent Law Treaty (PLT) in title II. PLT Article 13 provides for the restoration of the right of priority where there is a failure to timely claim priority to the prior application, and also where there is a failure to file the subsequent application within 12 months of the filing date of the priority application.

The United States Patent and Trademark Office (USPTO) rules of practice are consistent with the PLT and title II of the PLTIA. Section 201(c) of the PLTIA amended 35 U.S.C. 119 to provide that the 12 month periods set forth in 35 U.S.C. 119(a) and (e) may be extended by an additional 2 months if the delay in filing an application claiming priority to a foreign application or the benefit of a provisional application within that 12-month period was unintentional.

The information in this information collection is necessary so that patent applicants and/or patentees may seek restoration of the right of priority to a prior-filed foreign application or of the right to the benefit of a prior-filed provisional application. The USPTO will use the petition to restore the right of priority to a prior filed foreign application or the right to the benefit of a prior-filed provisional application to determine whether the applicant has satisfied the conditions of the applicable statute (35 U.S.C. 119) and regulation (37 CFR 1.55(c) or 1.78(b)).

### **II. Method of Collection**

Electronically via the USPTO's patent electronic filing system, by mail or hand delivery to the USPTO.

### III. Data

OMB Control Number: 0651-0073.

Forms: (SB = Specimen Book)

- PTO/SB/459 (Petition to Restore the Right of Priority under 37 CFR 1.55(c) or Petition to Restore the Benefit of a Prior-Filed Provisional Application under 37 CFR 1.78(b)).

*Type of Review:* Extension and revision of a currently approved information collection.

*Affected Public:* Private sector; individuals or households.

*Respondent's Obligation:* Required to obtain or retain benefits.

*Estimated Number of Annual Respondents:* 800 respondents.

*Estimated Number of Annual Responses:* 800 responses.

*Estimated Time per Response:* The USPTO estimates that the responses in this information collection will take the public approximately 1 hour to complete. This includes the time to gather the necessary information, create the document, and submit the completed item to the USPTO.

*Estimated Total Annual Respondent Burden Hours:* 800 hours.

*Estimated Total Annual Respondent Hourly Cost Burden:* \$348,000.

Table 1 – Total Burden Hours and Hourly Costs to Private Sector Respondents

Item No.	Item	Estimated Annual Respondents	Responses per Respondent	Estimated Annual Responses	Estimated Time for Response (Hours)	Estimated Burden (hour/year)	Rate <sup>1</sup> (\$/hour)	Estimated Annual Respondent Cost Burden
		(a)	(b)	(a) X (b) = (c)	(d)	(c) x (d) = (e)	(f)	(e) x (f) = (g)

<sup>1</sup> 2021 Report of the Economic Survey, published by the Committee on Economics of Legal Practice of the American Intellectual Property Law Association (AIPLA); pg. F-27. The USPTO uses the average billing rate for intellectual property attorneys in private firms which is \$435 per hour. (<https://www.aipla.org/home/news-publications/economic-survey>).

1	Petition to Restore the Right of Priority under 37 CFR 1.55(c)							
	Or							
	Petition to Restore the Benefit of a Prior-Filed Provisional Application under 37 CFR 1.78(b)	780	1	780	1	780	\$435	\$339,300
	<b>PTO/SB/459</b>							
	<b>Totals</b>	<b>780</b>	<b>---</b>	<b>780</b>	<b>---</b>	<b>780</b>	<b>---</b>	<b>\$339,300</b>

Table 2 – Total Burden Hours and Hourly Costs to Individuals or Households Respondents

Item No.	Item	Estimated Annual Respondents	Responses per Respondent	Estimated Annual Responses	Estimated Time for Response (Hours)	Estimated Burden (hour/year)	Rate <sup>2</sup> (\$/hour)	Estimated Annual Respondent Cost Burden
		(a)	(b)	(a) X (b) = (c)	(d)	(c) x (d) = (e)	(f)	(e) x (f) = (g)
1	Petition to Restore the Right of Priority under 37 CFR 1.55(c)							
	Or							
	Petition to Restore the Benefit of a Prior-Filed Provisional Application under 37 CFR 1.78(b)	20	1	20	1	20	\$435	\$8,700
	<b>PTO/SB/459</b>							
	<b>Totals</b>	<b>20</b>	<b>---</b>	<b>20</b>	<b>---</b>	<b>20</b>	<b>---</b>	<b>\$8,700</b>

*Estimated Total Annual Respondent Non-hourly Cost Burden: \$1,464,824.*

There are no maintenance costs, capital start-up costs, or recordkeeping costs associated with this information collection. However, the USPTO estimates that the total annual (non-hour) cost burden for this information collection, in the form of filing fees and postage, is \$1,464,824.

### Filing Fees

<sup>2</sup> Ibid.

The items with filing fees are listed in the table below.

Table 3: Filing Fees

Item No.	Information Collection Instrument	Estimated Annual Responses (a)	Amount (b)	Totals (a) x (b) = (c)
1	Grantable Petition to Restore the Right of Priority under 37 CFR 1.55(c) (undiscounted entity)	310	\$2,100	\$651,000
1	Grantable Petition to Restore the Right of Priority under 37 CFR 1.55(c) (small entity)	65	\$1,050	\$68,250
1	Grantable Petition to Restore the Right of Priority under 37 CFR 1.55(c) (micro entity)	25	\$525	\$13,125
1	Grantable Petition to Restore the Benefit of a Prior-Filed Provisional Application under 37 CFR 1.78(b) (undiscounted entity)	310	\$ 2,100	\$651,000
1	Grantable Petition to Restore the Benefit of a Prior-Filed Provisional Application under 37 CFR 1.78(b) (small entity)	65	\$1,050	\$68,250
1	Grantable Petition to Restore the Benefit of a Prior-Filed Provisional Application under 37 CFR 1.78(b) (micro entity).	25	\$525	\$13,125
	<b>Total Fees</b>	<b>---</b>	<b>---</b>	<b>\$1,464,750</b>

## Postage

Customers may incur postage costs when submitting some of the items covered by this information collection to the USPTO by mail. The USPTO estimates that the average postage cost for a paper submission will be \$9.25 (USPS Priority Mail flat rate envelope) and that approximately 8 submissions will be mailed to the USPTO per year, for a total of \$74.

## **IV. Request for Comments**

The USPTO is soliciting public comments to:

(a) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

- (b) Evaluate the accuracy of the Agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- (c) Enhance the quality, utility, and clarity of the information to be collected; and
- (d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

All comments submitted in response to this notice are a matter of public record. USPTO will include or summarize each comment in the request to OMB to approve this information collection. Before including an address, phone number, email address, or other personally identifiable information (PII) in a comment, be aware that the entire comment—including PII—may be made publicly available at any time. While you may ask in your comment to withhold PII from public view, USPTO cannot guarantee that it will be able to do so.

**Justin Isaac,**

*Information Collections Officer,*

*Office of the Chief Administrative Officer,*

*United States Patent and Trademark Office.*